

Filing an Amortization of Debt (Chapter 128) Case in Milwaukee County

This guide is designed to help people who do not have attorneys who are filing an amortization of debt case in Milwaukee County. Nothing in this document is intended to be taken as legal advice. If you are seeking legal advice, or have questions regarding your specific situation, you should consult with an attorney.

What is an amortization of debt action?

Amortization of debt actions (often called “Chapter 128” actions, after the chapter of the Wisconsin Statutes in which it is contained) allow a Wisconsin resident with a steady income (this statute applies to “[a]ny person whose principal source of income consists of wages or salary”) to pay certain debts in full through monthly payments over a period of not longer than three (3) years.

What is the difference between amortization of debt and bankruptcy?

Unlike a Chapter 7 bankruptcy, an amortization of debt action does not discharge (or wipe out) debt without payment. All included debts must be paid in full via the payment (amortization) plan. The amortization plan is more like a Chapter 13 bankruptcy plan. However, there are many differences between bankruptcy and amortization. To understand the differences and which is best for you, you may wish to seek the advice of an attorney. The Milwaukee Bar Association’s lawyer referral service number is 414-274-6768.

Does an amortization of debt action protect me from my creditors?

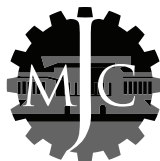
Any creditor included in a court-approved amortization of debt order cannot garnish your wages, or bank accounts, or otherwise try to collect on the debt. The creditor CAN, however, still file a lawsuit and obtain a judgment against you in court, if the creditor has not already done so. Additionally, if you do not follow through with making the payments, and the case is dismissed, or if the included debt is not paid off after the end of the three (3) year period, the creditors can resume debt collection efforts. See Wisconsin Statute §128.21.

What types of a debt can I include?

Generally, you can include any unsecured debt, such as late rent, past due utility bills, payday loans, credit cards, medical bills, accounts in collection, etc. You usually cannot include secured debt, such as a car payment or mortgage, UNLESS the creditor agrees. However, remember that the plan must result in all included debts being paid off in three (3) years, so large debts may not be appropriate for amortization.

Do I need an attorney?

An attorney can help you determine if an amortization of debt is right for you and, if so, what debts can and should be included. An attorney can also handle the paperwork and procedures. Some attorneys will agree to have their fees included as part of the debt that is paid in monthly installments. If you are interested in getting a referral to an attorney who handles these types of cases, call the Milwaukee Bar Association’s lawyer referral service. Their phone number is 414-274-6768. However, you are not required to have an attorney to file an amortization of debts case.



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What is a Trustee and how do I find one?

The Trustee is a neutral, third party who oversees the collection of money and makes payments to the creditors. In Milwaukee County, the Trustee will be randomly assigned by the court. The Trustee is paid a pre-determined percentage of the total debt and the fee is included in the monthly payments.

How do I file an amortization of debt action in Milwaukee County?

In this packet are forms approved for use in Milwaukee County, as well as filing directions.

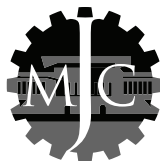
Can I get help filling out the forms?

Scroll down to see the packet of forms for filing a Chapter 128 Amortization of Debts. These forms are also available at the Legal Resource Center in Room G-10-1 of the Milwaukee County Courthouse.

Help filling out the forms is provided only at the Marquette Volunteer Legal Clinic at the Milwaukee Justice Center, which are in Room G-9 of the Milwaukee County Courthouse.

These clinics are scheduled every Thursday and Friday, with sign-in starting at 1:30pm. Spots tend to fill up fast, so try to arrive as close to 1:30pm as possible. Help is only provided on a first-come-first-served basis. We do not schedule appointments for help with Chapter 128 filings.

Help is also available at all other MVLC clinics. Visit www.law.marquette.edu/mvlc/services-hours-locations for dates, times, and locations.



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Checklist

1. Fill out a Petition to Amortize Debts (Form CV 5)
 - A. You must include your name and address as debtor (and your spouse's if you are filing together).
 - B. In paragraph 2, you must list an employer. As this statute applies to people whose principal source of income is wages or salary, petitions that do not list a valid employer are unlikely to be approved.
 - C. In paragraph 6, you must choose either that the court order payment to the Trustee from your employer by payroll deduction or the court order that you will pay the Trustee directly.
 - D. You must SIGN the document in front of a notary. Notaries are available at the Milwaukee Justice Center in Room G-9 and in Room 104 of the Courthouse.
2. Fill out an Affidavit of Debts (Form CV 6)
 - A. The affidavit *must* list all of the creditors to be included in the plan, by name and address.
 - B. The affidavit *must* include all accurate account numbers.
 - C. It must list the total amount due each creditor.
 - D. It must include a total of all the debts to be included in the plan.
 - E. You must SIGN the document in front of a notary. Notaries are available at the Milwaukee Justice Center in Room G-9 and in Room 104 of the Courthouse.
3. Fill out an Order Appointing Trustee and Enjoining Creditors (Form CV7)
 - A. It must include the requested Trustee information. The court will assign you a Trustee when you file.
 - B. You must choose either that the court order payment to the Trustee from your employer by payroll deduction or that the court order that you will pay the Trustee directly.
 - C. You must include a proposed amount to be deducted from your paycheck and paid by your employer to the Trustee per paycheck OR a monthly amount to be paid by you directly to the Trustee.
4. Make two (2) copies of the Petition to Amortize Debts, two (2) copies of the Affidavit of Debts and two (2) copies of the Order Appointing Trustee and Enjoining Creditors. A copy machine is available in the Milwaukee County Law Library in Room G-8 of the Courthouse, directly across from the Milwaukee Justice Center sign-in desk. Copies cost 25 cents per page.
5. Prepare two (2) stamped envelopes
 - A. One will be addressed to the Trustee, so the court can send the Trustee the petition, affidavit, and order appointing Trustee. You will get the Trustee's address when you file your papers.
 - B. One should be addressed to you, or your attorney, so you can receive a signed order from the court.
6. File your papers in Room 104 and pay the \$35 filing fee. In addition to the fee, make sure you have the following:
 - A. The original and one (1) copy of your Petition to Amortize Debts
 - B. The original and one (1) copy of your Affidavit of Debts
 - C. The original and two (2) copies of the Order Appointing Trustee and Enjoining Creditors
 - D. Your two (2) stamped envelopes, one addressed to you and one addressed to the Trustee.

